

SUPERIOR COURT OF ARIZONA  
MARICOPA COUNTY

FC 2004-090513

02/22/2011

HONORABLE HELENE ABRAMS

CLERK OF THE COURT

K. Depue

Deputy

IN RE THE MARRIAGE OF  
ALETHEA M ADAMS

ALETHEA M ADAMS  
2628 E FRAKTUR RD  
PHOENIX AZ 85040-3613

AND

ANDRE S ADAMS

ANDRE S ADAMS  
6805 W NICOLET  
GLENDALE AZ 85303

DOCKET-FAMILY COURT-SE  
FAMILY COURT SERVICES-CCC

**DECREE OF DISSOLUTION**

The Trial in this matter was conducted on February 16, 2011. During the proceedings, the Court heard from the witnesses, including the parties. The Court has since considered the evidence, including the demeanor of the witnesses, reviewed the exhibits as well as the case history, and considered the parties' arguments.

After significant deliberation, the Court makes the following findings and enters the following orders:

**THE COURT FINDS** as follows:

- A. At the time this action was commenced at least one of the parties was domiciled in the State of Arizona and that said domicile had been maintained for at least 90 days prior to the filing of the Petition for Dissolution of Marriage.
- B. The conciliation provisions of A.R.S. § 25-381.09 have either been met or do not apply.

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- C. The marriage is irretrievably broken and there is no reasonable prospect for reconciliation.
- D. There are two minor children, common to the parties, namely: Andre (DOB: 01/19/99) and Bryant (DOB: 07/29/01).
- E. Mother is not pregnant.
- F. This was not a covenant marriage.
- G. To the extent that it has jurisdiction to do so, the court has considered, approved and made provision for the maintenance of either spouse and the division of property and debts.

Based on the above,

**DISSOLUTION OF MARRIAGE**

**IT IS ORDERED** dissolving the marriage of the parties and restoring each party to the status of a single person.

**CUSTODY AND PARENTING TIME**

**Jurisdictional Findings**

**THE COURT FINDS** that the parties have two minor children in common: Andre (DOB: 01/19/99) and Bryant (DOB: 07/29/01). The parties and the minor children have resided in Arizona continuously for at least the six months preceding the filing of the petition for dissolution. This Court, therefore, has jurisdiction as Arizona is the “home state” of the minor children. *See* A.R.S. § 25- 1031.

**Best Interest Findings: A.R.S. § 25-403**

The Court has considered the agreement of the parties and the factors under A.R.S. § 25-403. The parties have stipulated to a finding that the agreed upon plan is in the best interests of the minor children.

**THE COURT FURTHER FINDS** that there is no history of domestic violence (A.R.S. § 25-403(E) and 25-403.03), any drug related offenses of either party (A.R.S. § 25-403.04) and any sexual offenses (A.R.S. § 25-403.05) sufficient to preclude the award of joint legal custody as agreed.

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**Legal Custody**

Based upon the foregoing and in accordance with the best interests of the minor children,

**THE COURT FURTHER FINDS** that it is in the children's best interest that Mother and Father be awarded joint legal custody of the children.

**IT IS THEREFORE ORDERED** awarding Mother and Father joint legal custody of Andre (DOB: 01/19/99) and Bryant (DOB: 07/29/01).

**Custody Terms**

**Parental Access To Records And Information-** Both parents are entitled to have equal access to documents and other information concerning each child's education and physical, mental, moral and emotional health including medical, school, police, court and other records directly from the custodian of the records or from the other parent. A person who does not comply with a reasonable request shall reimburse the requesting parent for court costs and attorney fees incurred by that parent to force compliance with this subsection. A parent who attempts to restrict the release of documents or information by the custodian, without a prior court order, is subject to appropriate legal sanctions.

**Educational Arrangements-** Both parents have the right to participate in school conferences, events, and activities (including extra-curricular), and the right to consult with teachers and other school personnel.

**Medical And Dental Arrangements-** Both parents have the right to authorize emergency medical/dental treatment, if needed, and the right to consult with physicians and other medical practitioners. Both parents shall advise the other parent immediately of any emergency medical/dental care sought for each child, to cooperate on health matters pertaining to each child and to keep one another reasonably informed regarding the status of each child's health. Both parents shall keep each other informed as to names, addresses, and telephone numbers of all medical/dental care practitioners.

**Parental Communication-** It is in the furtherance of each child's best interests for the parents to confer and for the views of each parent to be considered. There shall be communication between the parents to address day-to-day and more significant issues. The parents shall develop their communication by utilizing e-mail as their primary method for communication. This shall afford a method that ensures both accountability and verifiability. Both parties shall maintain and regularly review their e-mail accounts. They shall each respond in a timely fashion, even if such response is merely to acknowledge the receipt of information.

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Each should print copies of all e-mails received and sent so that if an issue arises in the future that has been addressed through e-mail, each party shall have proof as to what was communicated.

**Relocation-** Neither parent shall relocate the residence of the children outside of the state of Arizona or to a distance greater than 100 miles from the current residential locations unless that parent first secures the written consent of the other or secures a court order authorizing the move.

**Decision Making Authority-** It is anticipated that parental decisions shall be required for major issues in raising the children and in meeting on-going needs. If/when they arise, the parents shall address the issues. Each shall give good faith consideration to the views of the other and put forth best efforts to reach a consensus decision. If the decision involves medical or schooling issues, the parties may further elect to seek input from treating physicians or educators. Both parents shall be provided with such input.

**Parenting Time**

As a term of the overall custody orders, parenting time shall be exercised as follows:

**Regular Access-** Father shall have parenting time every weekend from Friday until Sunday and every week from Wednesday at 5:00 p.m. until Thursday at 8:00 a.m.

**Holiday Schedule-** The parenting plan signed October 5, 2010 has the Holiday Schedule and is adopted as an order of the court.

**Summer/Vacation-** The parenting plan signed October 5, 2010 has the Summer/Vacation Schedule and is adopted as an order of the court.

**CHILD SUPPORT**

By agreement of the parties,

In applying these findings under the Arizona Child Support Guidelines,

**THE COURT FURTHER FINDS** that a deviation regarding the obligation to pay child support from \$1,144.29 to \$1,200.00 is appropriate because it is in the best interests of the children.

**IT IS THEREFORE ORDERED** that Father shall pay to Mother as and for child support the sum of **\$1,200.00** per month, payable through the Support Payment Clearinghouse on the 1st day of each month commencing November 1, 2010 by Wage Assignment.

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**LET THE RECORD REFLECT** that an Order of Assignment is initiated electronically by the above-named deputy clerk.

Until the wage assignment becomes effective, it is the responsibility of the party obligated to pay child support to pay the support to **Support Payment Clearinghouse, P. O. Box 52107, Phoenix, Arizona 85072-2107**. The payment should show the case number and/or ATLAS case number and the name of the party paying support and the name of the party who will receive the payment.

If payments are made directly to the person who is to receive the support, the payments may be considered a gift and no credit will be given towards the support obligation.

Any change in the paying party's employment and any change in the residential address of either party **must** be submitted to the Clerk's Office, in writing, within ten (10) days of the change (A.R.S. 25-322(C)). Failure to notify the Clerk's Office of any change may be considered contempt of Court.

All obligations for child support for each child shall terminate upon a finding of this Court that the child has attained the age of 18 years, or is otherwise emancipated. If any child attains the age of 18 years while attending high school, support shall continue to be provided during the period in which that child is actually attending high school but only until the child reaches 19 years of age. Support for special needs children may continue past the age of 18 based on a finding of this Court. Provisions for health insurance and non-insured health expenses for the children, as provided for below, shall be deemed to be additional child support and shall be enforceable as such.

Pursuant to A.R.S. § 25-503.I, the right of a parent, guardian or custodian to receive child support payments as provided in this Order vests as each installment falls due. Each vested child support installment is enforceable as a final judgment by operation of law.

**Insurance and Unreimbursed Medical Expenses**

**IT IS FURTHER ORDERED** that Mother shall provide medical insurance for the benefit of the parties' minor child, and shall provide an insurance card and claim filing information/forms to the other parent. All medical, dental and orthodontia expenses incurred for the health and protection of the child not covered by insurance shall be paid **100% by Father and 0 % by Mother**.

With regard to unreimbursed medical, dental, and vision expenses,

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IT IS ORDERED that except for good cause shown, any request for payment or reimbursement of uninsured medical, dental and/or vision costs must be provided to the other parent within 180 days after the date the services occur. The parent responsible for payment or reimbursement must pay his or her share, as ordered by the Court, or make acceptable payment arrangements with the provider or person entitled to reimbursement within 45 days after receipt of the request.

Both parents should use their best efforts to obtain services that are covered by the insurance. A parent who is entitled to receive reimbursement from the other parent for medical costs not covered by insurance shall, upon request of the other parent, provide receipts or other evidence of payments actually made.

**Tax Deduction For Dependents**

**IT IS ORDERED** that the parties may claim the eligible dependent as follows: Mother shall claim Bryant every year and Father shall claim Andre every year.

**IT IS FURTHER ORDERED** that if Father is not current in the total Court-ordered child support obligation for the current calendar year and/or any Court-ordered arrearage payment due during the calendar year for which the exemption is to be claimed but nevertheless claims the children for tax purposes, Father shall pay directly to the Support Payment Clearinghouse 100 percent of any and all tax refunds that Father receives, which shall be applied first towards Father's current child support obligation, Father's current spousal maintenance obligation, and then towards any arrearage.

**Exchange Of Income Information**

**IT IS FURTHER ORDERED** that the parties shall exchange income information on every 24 months. Said financial information shall include, but not be limited to: personal tax returns with all schedules, affidavits of financial information, earning statements and other such documentation necessary to establish or prove the income of either party. In addition, at the time of the exchange of financial information, the parties shall also exchange residential addresses and the names and addresses of their respective employers.

**SPOUSAL MAINTENANCE**

Wife seeks an award of spousal maintenance. Husband opposes the award, asserting that Wife does not qualify for an award of spousal maintenance.

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The determination of spousal maintenance is controlled by A.R.S. §25-319. The threshold question is entitlement, which is controlled by subsection (A) of the statute. It provides as follows:

In a proceeding for dissolution of marriage or legal separation, or a proceeding for maintenance following dissolution of the marriage by a court that lacked personal jurisdiction over the absent spouse, the court may grant a maintenance order for either spouse for any of the following reasons if it finds that the spouse seeking maintenance:

1. Lacks sufficient property, including property apportioned to the spouse, to provide for that spouse's reasonable needs.
2. Is unable to be self-sufficient through appropriate employment or is the custodian of a child whose age or condition is such that the custodian should not be required to seek employment outside the home or lacks earning ability in the labor market adequate to be self-sufficient.
3. Contributed to the educational opportunities of the other spouse.
4. Had a marriage of long duration and is of an age that may preclude the possibility of gaining employment adequate to be self-sufficient.

**THE COURT FINDS** that in accordance with subsection (A)(3) above, Wife is entitled to an award of spousal maintenance. The Court, therefore, must address the amount and duration of spousal maintenance. In determining the amount and duration, "the current aim [of spousal maintenance] is to achieve independence for both parties and to require an effort toward independence by the party requesting maintenance." *Schroeder v. Schroeder*, 161 Ariz. 316, 321, 778 P.2d 1212, 1217 (1989). Noting this underlying principle, the Court must consider the statutory factors of A.R.S. § 25-319(B). Those factors, along with this Court's findings based thereon, are as follows:

1. *The standard of living established during the marriage.* The parties had a relatively comfortable standard of living.

2. *The duration of the marriage.* The parties were married for 11 years.

3. *The age, employment history, earning ability and physical and emotional condition of the spouse seeking maintenance.* Mother is 37 years old. Mother's employment history

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is that she worked customer service at Vanguard Financial for over 20 years. Mother does not have any physical or emotional conditions and is able to work. Mother is going back to school.

4. *The ability of the spouse from whom maintenance is sought to meet that spouse's needs while meeting those of the spouse seeking maintenance.* Husband's income is sufficient to assist Wife.

5. *The comparative financial resources of the spouses, including their comparative earning abilities in the labor market.* Husband makes much more than Wife.

6. *The contribution of the spouse seeking maintenance to the earning ability of the other spouse.* Wife worked while Husband did the program to go from apprentice to Journeyman. Husband was out of town a lot to become a Journeyman. Wife helped him.

7. *The extent to which the spouse seeking maintenance has reduced that spouse's income or career opportunities for the benefit of the other spouse.* Wife is unable to complete school without leaving her employment. Husband encouraged Wife to go back to school with the same amount of time (2 years) but he want to decide which school.

8. *The ability of both parties after the dissolution to contribute to the future educational costs of their mutual children.* Husband is able to contribute. Wife is questionable depending on her completing school.

9. *The financial resources of the party seeking maintenance, including marital property apportioned to that spouse, and that spouse's ability to meet that spouse's own needs independently.* Husband is sufficient with his income. Wife is questionable with going back to school full time.

10. *The time necessary to acquire sufficient education or training to enable the party seeking maintenance to find appropriate employment and whether such education or training is readily available.* The program Wife wants to attend would be for 2 years.



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11. *Excessive or abnormal expenditures, destruction, concealment or fraudulent disposition of community, joint tenancy and other property held in common.* Not applicable.

12. *The cost for the spouse who is seeking maintenance to obtain health insurance and the reduction in the cost of health insurance for the spouse from whom maintenance is sought if the spouse from whom maintenance is sought is able to convert family health insurance to employee health insurance after the marriage is dissolved.* Husband is paying insurance.

13. *All actual damages and judgments from conduct that results in criminal conviction of either spouse in which the other spouse or child was the victim.* Not applicable.

Having considered all of the relevant factors, and based upon all of the facts and circumstances presented here,

**THE COURT FINDS** that Mother is entitled to an award of spousal maintenance in the amount of \$400.00 for a term of 2 years.

**THE COURT FURTHER FINDS** that Father is capable of paying spousal maintenance in the amount of \$400.00 per month for 2 years.

**IT IS THEREFORE ORDERED** that effective as of August 1, 2011, Father shall pay Mother spousal maintenance in the amount \$400.00 per month for 2 years. The 2 years will allow Mother the time that she needs to secure additional employment and arrange for any training she needs to secure appropriate employment.

All spousal maintenance paid by Father to Mother shall be tax deductible for Father and shall be deemed income to Mother for income tax purposes. Further, the award shall be modifiable as to amount and duration in accordance with A.R.S. § 25-327. It shall terminate upon the death or remarriage of Mother.

The spousal maintenance payments shall be made through the Support Clearinghouse. An automatic Order of Assignment is issued herewith. Until it becomes effective, Father shall be responsible for ensuring that the payment is made through the Support Clearinghouse in a timely fashion.

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**DIVISION OF PROPERTY AND DEBTS**

**Community/Sole and Separate Property Claims and Debts**

In a proceeding for dissolution of marriage, the court shall divide any disputed property in accordance with the property's character. Property is characterized by the time of its acquisition. If acquired by either spouse before marriage or acquired during marriage by gift, devise, or descent, property is characterized as separate property. A.R.S. § 25-213(A). Under Arizona law, the court shall assign each spouse's sole and separate property to that spouse. A.R.S. § 25-318(A).

If acquired by either spouse during marriage, property is characterized as community property (with the exceptions of property acquired by gift, devise, or descent). A.R.S. § 25-211(A). There is a presumption that any property acquired by either spouse during marriage is community property, unless demonstrated otherwise by clear and convincing evidence. *See Sommerfield v. Sommerfield*, 121 Ariz. 575, 578, 592 P.2d 771, 774 (1979). Moreover, any property acquired by either spouse outside of Arizona shall be deemed to be community property if such property would have been characterized as community property had it been initially acquired in Arizona. A.R.S. § 25-318(A).

**Equitable Division**

Under Arizona law, the court shall divide community property equitably, although not necessarily in kind, without any regard to marital misconduct. A.R.S. § 25-318(A). As a general presumption, equitable division requires that community property be divided substantially equally. *See Toth v. Toth*, 190 Ariz. 218, 221, 946 P.2d 900, 903 (1997). However, the court may order an unequal division of community property in consideration of excessive or abnormal expenditures or the destruction, concealment, or fraudulent disposition of property. A.R.S. § 25-318(C).

When dividing property, the court may consider all related debts and obligations. A.R.S. § 25-318(B). To determine property's value, the court shall select a valuation date. The selection of this valuation date rests within the wide discretion of the trial court and shall be tested upon review by the fairness of the result. *See Sample v. Sample*, 152 Ariz. 239, 242-43, 731 P.2d 604, 607-08 (Ct. App. 1986).

Based on the above,

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**Real Property**

**THE COURT FINDS** that the parties owned a house at 2628 Fraktur Rd, Phoenix, AZ 85040 (the marital residence) as community real property.

**IT IS ORDERED** that Petitioner is awarded the marital residence.

**Personal Property**

**IT IS ORDERED** that the Time Share is awarded to Respondent.

**IT IS FURTHER ORDERED** that Respondent is awarded the 2006 Chevy Impala and Petitioner is awarded the 2007 Toyota Highlander.

Subject to the above,

**IT IS ORDERED** awarding to Father as his sole and separate property, subject to any liens or encumbrances on the property, all vehicles, household furniture, furnishings and appliances, and other personal property currently in his possession.

**IT IS FURTHER ORDERED** awarding to Mother as her sole and separate property, subject to any liens or encumbrances on the property, all vehicles, household furniture, furnishings and appliances, and other personal property currently in her possession.

**Retirement Accounts**

**THE COURT FINDS** that each party waives and gives up his or her interest in any retirement benefits, pension plan, or other deferred compensation of the other party.

**Debts**

By agreement of the parties,

**THE COURT FINDS** that the following community debts were identified:

- |                    |             |
|--------------------|-------------|
| 1. San Tan account | \$8,000.00  |
| 2. Capital One     | \$18,000.00 |
| 3. Student Loans   | \$10,000.00 |

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- |                                |              |
|--------------------------------|--------------|
| 4. BOA Mortgage                | \$200,000.00 |
| 5. Credit Cards for Respondent | \$2,000.00   |
| 6. Credit Cards for Petitioner | \$10,000.00  |

**IT IS ORDERED** that in fairly and equitably allocating the community assets and the community debts, Father shall be solely responsible for the following:

- |                 |            |
|-----------------|------------|
| 1. San Tan      | \$8,000.00 |
| 2. Credit Cards | \$2,000.00 |

**IT IS ORDERED** that in fairly and equitably allocating the community assets and the community debts, Mother shall be solely responsible for the following:

- |                  |              |
|------------------|--------------|
| 1. Capital One   | \$18,000.00  |
| 2. Student Loans | \$10,000.00  |
| 3. BOA Mortgage  | \$200,000.00 |
| 4. Credit Cards  | \$10,000.00  |

**IT IS FURTHER ORDERED as follows:**

- Father shall be solely responsible for any credit card or debt in his name incurred after service of the Complaint.
- Mother shall be solely responsible for any credit card or debt in her sole name incurred after service of the Complaint.
- Any community debts that were not identified at the time of the trial shall be divided equally between the parties.
- Each party shall pay any debt incurred by him or her respectively since the date of service of the Complaint in this matter.

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- Each party shall indemnify and hold harmless from any and all debts designated as the responsibility of that party by the terms set forth in this Decree.

**Equalization**

**THE COURT FINDS** that the above allocation of the real and personal property, when considered with the division of debt is fair and equitable under the circumstances and that no further adjustments are necessary.

**IT IS ORDERED** signing this minute entry as a formal order of this Court pursuant to Rule 81, Arizona Rules of Family Law Procedure.

/ s / HON. HELENE ABRAMS

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HONORABLE HELENE ABRAMS  
JUDICIAL OFFICER OF THE SUPERIOR COURT

All parties representing themselves must keep the Court updated with address changes. A form may be downloaded at: <http://www.superiorcourt.maricopa.gov/SuperiorCourt/Self-ServiceCenter>.